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THE

INTERIM

A REPORT OF INTERIM ACTIVITY . . . MONTANA LEGISLATIVE COUNCIL . . . HELENA

STATE DOCUMENTS COLLECTION

FEBRUARY 1986

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VOL. V, NO. 9

SPECIAL SESSION

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MARCH 24

The Governor has announced that he plans to call a special session beginning March 24. The formal call announcing subjects he wishes considered will be issued later. When the call is issued, Legislative Council policy will allow staff to draft bills for legislators if the bills are within the subject of the call.

NEW LEGISLATORS

In recent weeks, three legislators have been appointed to replace resigning members. They are:

DIST. 58

Dennis Veleber (replacing Steve Waldron)
3035 Eaton
Missoula MT 59801
Tel. 549-9219

DIST. 41

Charlotte Neill (replacing Toni Bergene)
166 Riverview C
Great Falls MT 59404
Tel. 761-5345

DIST. 52

Barry Stang (replacing Joe Hammond)
Box 429
St. Regis MT 59866
Tel. 649-2414 (business)
649-2724 (home)

CITIZENS' ADVOCATE'S TOLL FREE LINE AVAILABLE TO
LEGISLATORS -- 1-800-332-2272

TOLL FREE
NUMBER

Legislators who have telephone business with a
state agency are encouraged to use the Citizens'



Advocate's toll-free number to reach the agency. Call 1-800-332-2272, identify yourself as a legislator, and Kathy, Yvonne, or Peter will connect you with whichever state agency you need to talk to. If you expect the conversation to be lengthy, once you reach your party please have him or her call you back. Otherwise you tie up the toll-free line. Also, please do not use the toll-free line to call private parties or federal agencies. In addition, please remember that the toll-free line is intended to be used as a switchboard, not a message service.

JOINT INTERIM SUBCOMMITTEE ON VO-TECHS/JOB TRAINING

FEBRUARY 14
DATE SET

The Joint Interim Subcommittee on Vo-Techs/Job Training will hold its third meeting of the interim on Friday, February 14, at 9 a.m. in Room 104 of the Capitol. In the morning, the Subcommittee members will hold a work session to discuss the issues and options surrounding state governance and funding of the vo-tech centers. Members will also review the responses that were requested from the five vo-tech school boards on topics of concern to those school boards under the option of state governance of the centers.

The afternoon agenda will include a report from staff on legislative options for administration of the federal Job Training Partnership Act funds. In addition, the Office of the Legislative Auditor will review its recent job training program survey.

JOINT INTERIM SUBCOMMITTEE ON INFRASTRUCTURE

BANKERS
DISCUSS
INFRA-
STRUCTURE
FUNDING

At its third meeting on January 24, the Interim Subcommittee on Infrastructure heard two First Boston Corporation executives discuss mechanisms used in other states to fund public works projects. Henry Lanier and Tom Bradshaw suggested that state and local governments try to develop public-private partnerships, rather than "chasing federal dollars"; that a commitment to building and maintaining public facilities is more important than tax incentives in attracting new industry; and that local governments should raise their utility rates to compensate for the coming shortage of federal grants for water and sewer projects. They warned that current tax reform proposals may reduce or eliminate tax-exempt

bonds, which they believe will hurt local governments without increasing federal revenue. Both men promised to return for further consultation, if needed.

AUDITOR'S
REPORT
HEARD

During the afternoon portion of the meeting, members of the Legislative Auditor's staff presented a report on Montana's long-term debt, which now amounts to approximately \$2 billion, including interest through the year 2025.

SURVEY
COMPLETED

As the final item on its agenda, the Subcommittee heard a staff report on a mail survey of local governments initiated in December. Questionnaires were returned by 90 incorporated cities and towns, including Butte-Silver Bow and Anaconda-Deer Lodge, and 35 counties. Most respondents reported at least one public facility in need of rehabilitation, replacement, or expansion. For cities, this was most often a water system problem; for counties, it was roads or bridges.

NEXT
MEETING
APRIL 18

The Subcommittee will hold its fourth meeting on April 18. This meeting, which is to be the last one devoted to information-gathering, will feature a review of the role of the Public Service Commission in setting rates for local government services.

JOINT INTERIM SUBCOMMITTEE ON AGRICULTURAL
PROBLEMS

GREAT FALLS
MEETING SET
FEBRUARY 21

The Joint Interim Subcommittee on Agricultural Problems will hold its second meeting of the interim on Friday, February 21, at 8 a.m. in the Gallery Room of the Civic Center in Great Falls.

At this meeting, the Subcommittee will consider the issue of agricultural research priorities and problems in the quality of Montana grain. In addition, the Subcommittee will hear testimony from Great Falls area residents concerning the problem of wildlife damage to agricultural property and crops.

Since the last meeting, held in August 1985, the Subcommittee has considered a variety of issues and policy options proposed for the study called for by HJR 57, which requests an interim legislative study on the economic problems of agriculture in Montana. In December, the Subcommittee unanimously voted to approve a set of

study issues, which includes the following questions:

STUDY
ISSUES
OUTLINED

- 1) Should the state develop a debt restructuring program to help agricultural producers achieve a more manageable debt load?
- 2) Should the state establish an agricultural credit program to help hard-pressed farmers and ranchers obtain short-term credit to meet immediate needs for operating capital?
- 3) Should Montana enact legislation to protect agricultural producers against farm foreclosure or bankruptcy?
- 4) What assistance should be provided to farmers and ranchers who suffer financial failure or bank foreclosure?
- 5) Should the state enact measures to discourage ownership of agricultural land for investment or tax write-off purposes?

The Subcommittee plans to hold a total of five public meetings in various communities around the state. However, the Subcommittee has not yet adopted a meeting schedule.

JOINT INTERIM SUBCOMMITTEE ON LIEN LAWS

LONG DAY
FEBRUARY 7

Instead of a two-day meeting in February as originally planned, the Subcommittee on Lien Laws will meet only on Friday, February 7, beginning at 9 a.m. in Room 104 of the Capitol. Senator Mike Halligan, Chairman, said the meeting will continue until 7 p.m., if necessary, to complete its business.

Major business on the agenda is the review of and action on recommendations for revisions of laws on exemptions of property from execution and on modifications of the lien laws. A discussion paper outlining the proposed recommendations was circulated among Subcommittee members and interested persons in early January.

JOINT INTERIM SUBCOMMITTEE ON THE LAW ENFORCEMENT
ACADEMY

PROPOSAL
REQUIREMENTS
SET

The Joint Interim Subcommittee on the Law Enforcement Academy has established its requirements for proposals for an improved facility to

house the Montana Law Enforcement Academy. These requirements were established in two meetings -- one meeting held in Bozeman on December 2, and the other meeting conducted via telephone conference call on December 30, in which the Subcommittee reconsidered the issue of space requirements for the Academy.

The Subcommittee's requirements for an improved Academy facility are contained in a 40-page document drafted by the Subcommittee staff and the Architecture and Engineering Division of the Department of Administration. This document has been sent to interested parties who have indicated a desire to submit a proposal for consideration by the Subcommittee.

An important requirement for all proposals is that the proposal must present a plan for use of an existing, adequate building. Such building must be structurally sound and have a projected life of no less than 20 years. Other requirements are:

- 1) The facility must contain a minimum total gross building area of 59,826 sq. ft.
- 2) The facility must be designed to serve 13 staff and 100 resident law enforcement trainees.
- 3) The facility must contain a 12-lane indoor firing range.
- 4) The facility must meet the functional area requirements for six main building components: administration, classroom, physical training, dormitory, support service, and kitchen/dining area.

PROPOSALS
DUE
FEBRUARY 24

The Subcommittee issued its call for proposals on January 10. Proposals will be accepted no later than 5 p.m. on February 24.

The Subcommittee will evaluate the proposals for an Academy at its next meeting, which is not expected to be held until April or May.

ENVIRONMENTAL QUALITY COUNCIL

REPORT ON
JANUARY
MEETING

The Environmental Quality Council met on January 16 and 17 to continue work on the major study efforts of the interim. The Council heard presentations on state and local review procedures

for new land subdivisions and reviewed the concerns expressed by realtors, public officials, and citizen groups over current subdivision laws. The Council also considered and approved study plans on oil and gas regulation and the Montana Environmental Policy Act.

LAND
RESOURCES
SUBCOMMITTEE

The EQC Land Resources Subcommittee met with representatives of the Department of Natural Resources to discuss funding priorities for the Renewable Energy and Conservation Program. The Subcommittee heard a presentation by EnTech on potential business opportunities in hazardous waste management and was updated on Department of Health and Environmental Sciences' feasibility studies for a state-operated hazardous waste collection and transfer facility. Morris Brusett of the Northwest Power Planning Council explained the new regional power plan.

WATER
RESOURCES
SUBCOMMITTEE

The EQC Water Resources Subcommittee adopted a study plan for assessing Montana's water quality management programs. The Subcommittee began this effort with a detailed presentation on the statutory responsibilities, organization, and funding of the DHES Water Quality Bureau.

LEGISLATIVE AUDIT COMMITTEE

NEXT MEETING
DURING
SPECIAL
SESSION

The Legislative Audit Committee met January 17 in Room 405 of the Capitol. The next meeting date was not set but was scheduled during the special session at the call of the chair.

NEW
MEMBERS

The Audit Committee has two new members. Rep. Bruce Simon has replaced Toni Bergene and Rep. Dorothy Bradley has replaced Steve Waldron. Those of you with an Interim Directory may wish to update it.

LEGISLATIVE COUNCIL

School Funding Lawsuit -- Committee Assigned

EDUCATION
LAWSUIT
ISSUE

Acting on a recommendation by the temporary Subcommittee on School Funding, which met January 4, the Legislative Council, at its January 17 meeting, authorized the appointment of an interim subcommittee "to study a definition of basic education" and to explore mediation opportunities with the parties in the school funding lawsuit

that has been in progress since April 1985. The motion creating the study committee stipulated that mediation could be explored if the current district court trial schedule were vacated and if the district court would order a stay of all proceedings. The Council also approved a motion that the proposed budget for the study committee be brought before the special session.

FURTHER
ACTIVITY
AT FINANCE
COMMITTEE

The Legislative Finance Committee, meeting that same day, also recommended establishment of the study committee. James Goetz, attorney for the plaintiff school districts, appeared before the Committee to say that the plaintiffs "cannot afford to put this case on stay just because a legislative committee is appointed", but that the Legislature should become involved in the suit. He did agree to consider delaying the trial date until after the 1987 session and did acknowledge that the case might be put on hold if future negotiation produced a satisfactory settlement.

Republican House Leader Robert L. Marks has appointed Representatives Gene Donaldson and Dennis Nathe to serve on the new interim study committee. The Speaker and the Senate Committee on Committees have not yet announced their appointments. (See also, Finance Committee article.)

ADDITIONAL
INFORMATION
ON SUIT

On January 29, District Judge Henry Loble issued a new scheduling order for the lawsuit, which sets the trial date for May 11, 1987. Judge Loble also allowed the Montana Legal Defense Fund, the legal arm of the Montana Taxpayers Association, to file a friend-of-the-court brief in support of the state's position in the lawsuit.

CSG NEWS

At its January 17 meeting, the Legislative Council appointed Rep. Earl Lory to the Subcommittee on High Level Waste, a subcommittee of the CSG's Environment and Hazardous Materials Committee. The Committee will serve as CSG's lead in disseminating information regarding high level radioactive waste management, including interstate transportation of wastes.

LEGISLATIVE FINANCE COMMITTEE

MEETING
JANUARY 17
AND 18

The Legislative Finance Committee met January 17 and 18. In addition to taking action on budget amendments, the Committee discussed and took action on several major items.

SCHOOL
FOUNDATION
PROGRAM

The temporary Subcommittee on School Funding appointed by the Legislative Council and the Legislative Finance Committee in November met January 4 to determine the feasibility of appointing a permanent school funding committee and the issues to be addressed by such a committee. The temporary committee recommended that a permanent committee be formed to develop a definition of basic education and to pursue mediation opportunities with the education lawsuit parties. The temporary committee also requested that the defendants' and plaintiffs' lawyers discuss mediation opportunities with the presiding judge for the purpose of determining "whether the judge would consider mediation a possibility and what his reaction might be".

At the Legislative Finance Committee's January meeting, the Committee heard testimony and took action on the following school funding areas:

- 1) On January 17, the Legislative Council testified it had assigned a subcommittee under its statutory authority and recommended that the budget of the subcommittee be brought before the special session. The purpose of this committee is to define basic education and to pursue mediation opportunities with the lawsuit parties if the plaintiffs agreed to stay the lawsuit proceedings. The Legislative Finance Committee approved a motion to endorse the Council's recommendation to form a committee to develop a basic education definition only. (See also, Legislative Council article.)
- 2) On January 17, the plaintiffs' lawyer testified he would discuss with his clients the possibility of delaying the trial date to no sooner than the end of the next regular session. In response, the Legislative Finance Committee approved a motion to formally request the plaintiffs' lawyer to pursue this discussion with his clients.
- 3) On January 18, the Legislative Finance Committee moved that if the Senate and House appointing authorities have not appointed the Council-recommended school funding committee by February 10, and if that committee has not met by February 20, the Legislative Finance Committee would not participate. A second motion was made to appoint a four-member subcommittee of the Legislative Finance

Committee to work on the school foundation program. Representatives Donaldson and Peck and Senators McCallum and Van Valkenburg were appointed.

REPORT ON
EXPLOSION AT
THE PRISON

Carroll South, Department of Institutions Director, presented a report to the Legislative Finance Committee on the explosion at Montana State Prison the evening of December 30. The explosion totally destroyed guard tower number one, severely damaged the new administration building, and caused minor damage to three other buildings. The on-duty tower officer was killed and the officer who was en route to relieve the tower officer was seriously injured in the blast.

The guard tower will be reconstructed by September or October of 1986. The destroyed tower was insured and is expected to cost in excess of \$200,000 to rebuild. The new administration building, which was nearing completion, is still the property of the prime contractors and will be the responsibility of their insurers. It is expected to require twelve months to complete repair/reconstruction of the building.

HAZARDOUS
WASTE
COLLECTION
AND TRANSFER
FACILITY

The Department of Health received funds in the 1985 Legislature to build and operate a hazardous waste collection and transfer facility. A staff report raised two concerns regarding the hazardous waste facility: (1) the department had not explored available options to increase compliance that did not include facility construction; and (2) a delay in funding for this project gives the department the opportunity to explore other options prior to facility construction. In response to concerns expressed by the Committee, the Department of Health and Environmental Sciences agreed it will evaluate nonfacility options prior to proceeding with construction.

BURLINGTON
NORTHERN

The Committee discussed a staff report on railroad taxation and the impacts of the closure of the Burlington Northern's Livingston shop. With the removal of the BN Livingston shop from the Park County tax rolls in 1987, Park County and the Livingston school district will lose an estimated \$257,000 in tax revenues. However, due to the unit valuation method used to assign BN's system-wide property value to Montana, other Montana counties will pick up much of the property value that Livingston loses. The net effect of BN's shop closure in Livingston, given a 14

percent tax rate, will be to reduce BN's property tax liability in Montana by \$16,000.

STATE
WATER
PROJECTS

A staff report was presented to the Committee on the financial status of the state-owned dams and canals. The report noted that in fiscal years 1978-1985, \$3.6 million spent on state water projects went unrecovered from project users. The report also noted that the legislative intent appears to be unclear relative to cost recovery from state water projects, and the State of Montana lacks an accurate record of the state's investment in its water projects.

The Legislative Finance Committee requested that DNRC work with the Committee's staff to develop a report for the Legislature that would include all expenditures on the water projects and show the sources of funding for these expenditures. The report would show the extent to which expenditures of state funds can be expected to be recovered through water project revenues. The Committee asked the Department to present project costs and its policies on project cost recovery and a justification of its policies. The Department was also asked to identify how it includes public benefits in its policy decisions.

ADMINISTRATIVE CODE COMMITTEE

NEW
STAFFER

The Administrative Code Committee has a new staff person. John MacMaster has been assigned as staff attorney for the Committee. Greg Petesch has withdrawn as staff to the Committee in order to devote more time to his duties as Director of the Legal Services Division. You may wish to note this in your Interim Directory for future reference.

NEXT
MEETING
FEBRUARY 21

The next ACC meeting is scheduled for February 21. Please remember that you may contact committee members or staff regarding questions on any agency rules.

COAL TAX OVERSIGHT SUBCOMMITTEE

RESULTS OF
JANUARY
MEETING

During its meetings on January 17 and 18, the Coal Tax Oversight Subcommittee decided to meet during the forthcoming special session to select a date for review of the effectiveness of HB 607 and to determine the structure of the review.

The Subcommittee also requested for future meetings: Follow-up from DNRC on water development projects; follow-up from the Board of Investments on recent investments in regard to securities purchased, criteria for selection, waiting period before choosing permanent investments, possibility of using commodities or futures markets for hedging; follow-up from Science and Technology Board on progress of research funding; and a review by the Legislative Fiscal Analyst and the Office of Budget and Program Planning of OPI's plan for loans from the Education Trust.

In other actions, the Subcommittee decided to make formal written request to the Governor to define the objectives of HB 607; approved with modifications and additions the staff's proposed outline of questions to be addressed in the review of HB 607; authorized staff to continue negotiations with Lincoln Institute of Land Policy to obtain professional assistance in the review of HB 607; and approved with amendments the draft bill for a Tenneco Plant Impact Assistance Compact Act and directed that copies of the bill be sent to the North Dakota legislature with the request that the North Dakota law be amended to conform.

REVENUE OVERSIGHT COMMITTEE

JANUARY 10 MEETING REPORT

The Revenue Oversight Committee held its fifth meeting of the interim on January 10. The Committee continued its exploration of options for dealing with property tax appeals and property taxes paid under protest. Several organizations and interested persons presented testimony that supported the Committee's consideration of allowing local governments and school districts to spend a portion of property taxes paid under protest. The Committee expects more input from local government organizations as the study continues.

Burlington Northern Railroad property taxes were again an item of discussion at the January meeting. The Committee's staff presented a comparison of methods of valuing railroad property and BN's value and property taxation in more than a dozen other states. Department of Revenue staff briefed the Committee on the methods used by the Department to value railroad property, and specifically how BN's property is valued in Montana.

NEXT MEETING The Committee expects to review the BN property
FEBRUARY 21 tax issue at the February 21 ROC meeting. That
 meeting will be in Room 104 of the Capitol.

COMMITTEE ON INDIAN AFFAIRS

ALCOHOLISM The Committee on Indian Affairs met on Friday,
IS January 31. The major item on the agenda was
DISCUSSION alcoholism. Discussion topics included Indian
TOPIC alcoholism treatment methods and state and federal
 funding for Indian alcoholism treatment programs.

SELECT COMMITTEE ON HEALTH INSURANCE FOR RETIRED PUBLIC EMPLOYEES

NEXT The next meeting of the Select Committee on Health
MEETING Insurance for Retired Public Employees is sched-
FEBRUARY 28 uled for Friday, February 28. It will begin at
 9:30 a.m. in Room 104 of the State Capitol. If
 the Committee is unable to complete its work on
 Friday, the meeting will continue on Saturday,
 March 1, 1986, at 9 a.m. in Room 104.

During this meeting, staff will report to the
Committee on the following topics: the results of
the Committee's retiree health insurance survey;
local government group health insurance plans;
retiree health insurance in the private sector;
legal issues concerning postretirement health care
benefits; and retiree health insurance options.

TESTIMONY Following staff reports, the Committee will ask
TO BE HEARD for testimony from interested persons and groups
 on proposals for meeting the health insurance
 needs of retired public employees. The Committee
 then will select proposals for further study and
 cost analysis.

MONTANA-WESTERN CANADIAN PROVINCES BOUNDARY ADVISORY COMMITTEE

MEET WITH A meeting with James Horsman, Alberta's Minister
ALBERTA for Federal and Intergovernmental Affairs, is set
MINISTER for Friday, February 21, at 9 a.m. in the
FEBRUARY 21 Governor's Reception Room. The Alberta delegation
 will discuss the Province's proposed Milk River
 Project. Other topics will include further
 cooperation on agricultural research and the
 importance of free trade.

WATER POLICY COMMITTEE

BOZEMAN
MEETING
JANUARY 30
AND 31

The Water Policy Committee met in Bozeman on January 30 and 31 and gave detailed consideration to the state's water adjudication program. The Committee also heard presentations on Montana's water research program. Larry Morandi of NCSL provided the Committee with an update on recent developments on interstate water issues in the Missouri River Basin.

SPECIAL REPORT

The Liability Insurance Problem

Prepared by M. Valencia Lane
Staff Attorney

Montana Legislative Council

The problem of unavailability or high cost of liability insurance has recently captured much media and legislative attention. You, as a legislator, have undoubtedly been contacted by constituents who have been adversely affected by the cancellation of insurance or extreme price increases. In January, over 250 people attended an NCSL seminar in Denver entitled "Controlling Liability Insurance Costs: State Strategies". What is the national view of this problem as reflected at this seminar? Because of the importance of the problem and timeliness of the seminar, we are including the following summary of the seminar as a special addendum to this newsletter.

The insurance business is cyclical in nature, and there have always been periods where premium levels have swung up or down; however, this "down" cycle is apparently more severe than usual. Several factors have contributed to the current liability insurance "crisis".

Firstly, there is the effect of inadequate pricing of commercial and professional insurance, coupled with a decrease in investment yields. While interest rates were high in recent years, many insurance companies engaged in the practice of "cash flow underwriting". Companies discounted their rates to write as much business as possible to gain capital for investment. They could then invest their premiums and recover a handsome profit, thereby subsidizing ever-increasing claim losses. When interest rates fell, companies were left without anticipated investment income to make up for losses.

Secondly, at about the same time, there was an increasing unpredictability in the civil justice system in general. Insurance companies found themselves saddled with unanticipated liability in the areas of environmental pollution, asbestos, and personal injury cases. Not only did courts construe contracts of insurance to cover actions not anticipated by companies, but some cases saw unusually large jury awards. This unpredictability in the civil justice system has made insurers particularly cautious. For example, the Fireman's Fund Insurance Company announced January 20, 1986, that it will not issue any new policies in Montana as the result of a \$3.5 million verdict awarded against it in Great Falls.

Thirdly, for some of the same reasons discussed above, foreign reinsurers have shied away from the U.S. market. U.S. companies have found the reinsurance market has tightened up at the same time their capacity to write insurance has declined.

As a result of the above factors, insurance companies have taken steps to reduce their losses, including cancellation of major exposure clients, restriction of new business, reduction of coverage, increasing premiums, curtailment of underwriting of high-risk business, and use of selective underwriting criteria. The result is the current crisis in availability and cost.

The insurance industry lays primary blame for the problem on the civil justice system. Consequently, industry representatives at the seminar called for general tort reform. The following are some areas in which change has been suggested: structured settlements, contingent fee mechanism, limits on punitive damages (or pay to the state), review needs for courts of claims, eliminate joint/several liability rule, and eliminate collateral source rule. On the other hand, a representative of the trial lawyers association argued that the problem is solely an insurance industry problem and he opposed any tort reform.

Insurance regulators who spoke at the seminar generally expressed the opinion that there is room for improvement, not only in tort reform but in the area of regulation, as well. Several speakers felt that state insurance regulators' offices should be better funded, and that insurance regulators need additional authority over insurance companies to prevent such severe cycles in the future.

Some short-term solutions which were suggested for the availability problem include: market assistance programs (MAPs -- a voluntary program in which regulators and insurance companies help the public find coverage), risk management, alternative dispute resolution, joint underwriting associations (JUAs), and pooling of risks (self-insuring). While these solutions would aid in availability, they would not generally ease the problems with cost.

The issues involved in the problem are complex and interwoven and no single solution can be expected to resolve the "crisis". All speakers at the seminar urged legislators to work with the insurance regulator's office of their state to gather information which will enable them to make careful analysis of the problem and adopt meaningful changes in their state's laws.

LEGISLATIVE INTERIM CALENDAR

FEBRUARY

SATURDAY

FRIDAY

THURSDAY

WEDNESDAY

TUESDAY

MONDAY

SUNDAY

*all meetings are subject to change

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9	10	11	12	13			14	VALENTINE'S DAY VO-TECH/JOB TRAINING - Rm. 104	15
16	17		19	20			21	ACC -Rm. 132 AG.PROB.-Civic Center in GF ROC - Rm. 104 MONT.-WESTERN CANADIAN COMM. Gov. Recept. Rm.	22
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LEGISLATIVE INTERIM CALENDAR

SATURDAY

FRIDAY

THURSDAY

WEDNESDAY

TUESDAY

MARCH

MONDAY

SUNDAY

1

RETIREE HEALTH
INS. COM.
(Tentative)

8

15

22

29

7

14

21

REV. OVERSIGHT
COM. - Rm. 104

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SPECIAL SESSION

2

9

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EASTER

30

*all meetings are subject to change

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